

AGENDA MEMO

CITY COUNCIL MEETING DATE: JULY 19, 2006

DEPARTMENT: PLANNING AND DEVELOPMENT

ITEM DESCRIPTION: VAR-12782 - APPLICANT: JAMES E. STROH - OWNER: NORTHBROOKE, LLC, ET AL

**** CONDITIONS ****

Staff recommends DENIAL. The Planning Commission (4-3/se, bg, sd vote) recommends APPROVAL, subject to:

Planning and Development

1. Approval of and conformance to the Conditions of Approval for Rezoning (Z-0137-94) and the related extensions shall be required.
2. This approval shall be void one year from the date of final approval, unless a business license has been issued to conduct the activity, or if required, upon approval of a final inspection. An Extension of Time may be filed for consideration by the City of Las Vegas.
3. Any new office uses, not having a Certificate of Occupancy as of 06/22/06, shall only be open between the hours of 8:00am to 6:00pm, Monday through Saturday.

**** STAFF REPORT ****

APPLICATION REQUEST

This is a request for a Variance to allow 361 parking spaces where 412 is the minimum number of parking spaces required on 7.84 acres at 4275, 4285, 4295, 4305, 4315, 4325, and 4335 North Rancho Drive.

EXECUTIVE SUMMARY

The applicant has constructed a complex intended to be used for office and retail uses. The parking provided on the site was sufficient for the project as originally conceived. The applicant then attempted to add restaurant, salon and church uses to the site that, per the Zoning Code, require a greater number of parking spaces than are provided on the site. Some building permits and business licenses have been issued by the city. The applicant has applied for this Variance to confirm the current parking situation on the site. Should the Variance be denied, vacant portions of some of the buildings on the site may have to remain vacant.

BACKGROUND INFORMATION

A) Related Actions

- | | |
|----------|--|
| 01/28/92 | The Board of Zoning Adjustment approved a request for a Variance (V-0184-91) to allow an existing U-Haul Truck and Trailer Rental Business on the west side of Rancho Drive approximately 600 feet south of Craig Road, and to allow such vehicles to be parked on an unpaved surface where paving is required. |
| 05/06/92 | The City Council approved an appeal of a denial by the Board of Zoning Adjustment on 03/24/92 of a Review of Condition #3 of V-0184-92 which would have required the paving of unpaved parking, storage and display areas for the existing Truck and Trailer Rental Business on the subject site. |
| 12/21/94 | The City Council approved a request to Rezone (Z-0137-94) from R-E (Residence Estates) under a Resolution of Intent to C-2 (General Commercial) and R-E (Residence Estates) to C-2 (General Commercial), to allow an Auto Parts Exchange in conjunction with a Major Automotive Accessory Retail Chain and to allow a Mini-Storage Facility on the subject site. |
| 03/20/96 | The City Council approved a first Extension of Time (Z-0137-94(1)) for Z-0137-94. The Planning Commission had recommended approval on 02/22/96. |

- 04/14/97 The City Council approved a second Extension of Time [Z-0137-94(2)] for Z-0137-94. The Planning Commission had recommended approval on 03/13/97.
- 03/09/98 The City Council approved a Reinstatement and a third Extension of Time [Z-0137-94(3)] for Z-0137-94, for an approved 93,425 square-foot one- and two-story mini-storage facility with RV storage and a 56,964 square-foot retail center including an auto parts exchange on the subject site. The Planning Commission had recommended approval on 02/12/98.
- 10/22/98 The Planning Commission approved the V.A.O. Commercial Center Tentative Map (TM-0056-98) on this site.
- 12/03/98 The Planning Commission approved the V.A.O. Commercial Center Final Map (TM-0056-98) on this site.
- 11/07/01 The City Council denied a request for a Site Development Plan Review [Z-0137-94(4)] for a proposed 396-unit Residence Hotel on a portion of the subject site, now addressed as 4339 North Rancho Road. The Planning Commission had recommended approval on 09/20/01.
- 11/07/01 The City Council denied a request for a Special Use Permit (U-0016-01) for a proposed 396-unit Residence Hotel on a portion of the subject site, now addressed as 4339 North Rancho Road. The Planning Commission had recommended approval on 09/20/01.
- 11/06/02 The City Council denied a request for a Site Development Plan Review (Z-0137-94(5)) for a Mixed-use Development consisting of 72,171 square feet of office space and 29,440 square feet of retail space, and a reduction in parking lot landscaping requirements on the subject site. The Planning Commission had recommended approval on 09/26/02.
- 08/14/03 The Planning Commission approved a request (TMP-2646) for a Tentative Map for a one-lot commercial subdivision on 9.09 acres located at 4339 North Rancho Drive.
- 09/01/04 The City Council approved a request (DIR-4890) for a Water Feature Exemption to allow three Water Features for a commercial development located at 4301 North Rancho Drive.
- 11/04/04 The Planning Commission approved a request for a Master Sign Plan (MSP-5311) for an approved office and retail development on 7.86 acres at 4301 North Rancho Drive.

- 05/25/06 The Planning Commission held this item in abeyance at the request of the applicant in order to address staff's concerns.
- 06/08/06 The Planning Commission again held this item in abeyance at the request of the applicant in order to review comments made by staff.
- 06/22/06 The Planning Commission voted 4-3/se, bg, sd to recommend APPROVAL (PC Agenda Item #16/gl).

B) Pre-Application Meeting

- 03/20/06 The applicant was advised of the submission requirements for this type of application.

C) Neighborhood Meetings

A neighborhood meeting is not required for a Variance application and none was held.

DETAILS OF APPLICATION REQUEST

A) Site Area

Net Acres: 7.84

B) Existing Land Use

Subject Property: Office and Commercial Center
North: Tavern Use
 Restaurant Use
 General Retail Use
South: Office Use
 Single-Family Residential Use
East: Undeveloped (Proposed Commercial Development)
West: Mobile Home Use

C) Proposed Land Use

Subject Property: SC (Service Commercial)
North: SC (Service Commercial)
South: SC (Service Commercial)
 DR (Desert Rural Density Residential)
East: SC (Service Commercial)
West: L (Low Density Residential)

D) Existing Zoning

Subject Property: C-2 (General Commercial)
North: C-2 (General Commercial)
South: C-1 (Limited Commercial)
 R-E (Residence Estates)

East: C-2 (General Commercial) under Resolution of Intent to C-1 (Limited Commercial)
West: R-MH (Mobile/Manufactured Home)

E) General Plan Compliance

The subject property is designated SC (Service Commercial) in the Southeast Sector Plan of the Master Plan. The Service Commercial category allows low to medium intensity retail, office, or other commercial uses that serve primarily the local area patrons and do not include more intense general commercial characteristics. The existing C-2 (General Commercial) zoning district is not consistent with the Master Plan, although the existing development on the site is permitted within the C-2 zoning district. The requested Variance is not affected by any specific Master Plan policies.

<i>SPECIAL DISTRICTS/ZONES</i>	Yes	No
Special Area Plan		X
Special Overlay District		X
Study Area		X
Rural Preservation Neighborhood		X
Development Impact Notification Assessment		X
Project of Regional Significance		X

The subject property is not subject to any Special Area Plan or Overlay District, and is not within any Study Area or Rural Preservation Neighborhood.

ANALYSIS

A) Zoning Code Compliance

A1) Parking and Traffic Standards

Pursuant to Title 19.10, the following Parking Standards apply to the subject proposal:

Uses	GFA / Units	Required			Provided	
		Ratio	Parking		Parking	
			Regular	Handicap	Regular	Handicap
Retail	12,300 SF.	1/250 GFA (based on overall site exceeding 25,000 SF)	49.2 spaces			
Office	54,730 SF	1/300 GFA	182.4 spaces			
Beauty Parlor	9,427 SF	1/200 GFA	47.1 spaces			
Restaurant	1,866 SF seating area,	1/50 GFA seating area,	37.3 spaces			
	3,184 SF other	1/200 GFA other	15.9 spaces			
Delicatessen	2,678 SF	1/100 GFA	26.7 spaces			
Church	15,560 SF (5,300 SF in gathering area)	1/100 GFA of gathering area	53.0 spaces			
Total			411.6 spaces (412 spaces)	9 spaces of overall total	361 spaces	14 spaces of overall total

The proposal provides 361 parking spaces where 412 parking spaces are required, which is the subject of this Variance request. The requested deviation is 12.4%.

B) General Analysis and Discussion

The applicant has provided a parking breakdown, and has attempted to justify the parking reduction by indicating that the church use will only operate on weekends and will be able to share parking with weekday users. The proposal, however, does not meet the provisions for shared parking pursuant to Title 19.10.010.H.2, in that the parcels that comprise the development already share parking throughout the site, and there is no additional parcel with which parking can be shared. Differences in the hours of operation are not recognized in the Code since uses can change hours of operation, or new tenants with allowable uses that have weekday operating hours could replace the church without further notice to the city. It should also be noted that some of the figures provided do not appear to be realistic; for example, the restaurants are calculated with only 37% of the total floor area as seating area. Most restaurants would have 60 to 70% of their floor area as seating space. Also, only 34% of the church floor space is devoted to gathering area; the remaining space, over 10,000 square feet, is not identified for any use and no parking is assigned to that space.

It should be noted that, despite the deficiency in parking, the city has issued permits and/or licenses for a number of businesses in the center. These are as follows:

<u>Address</u>	<u>Business</u>	<u>C/O Permit</u>	<u>C/O Final</u>	<u>License</u>
4275 N. Rancho Dr				
-suite 105	Jitters	6/1/05	none	none
-suite 110	Rancho Tile	6/29/05	7/18/05	7/27/05
-suite 120	U.S. Pak-n-ship	11/18/04	3/10/05	4/6/05
-suite 130	Café Ole	6/20/05	10/14/05	10/27/05
-suite 140	Payless Cleaners	2/15/06	none	5/6/06
-suite 150	East Coast Pizza	12/30/04	7/1/05	7/18/05
-suite 155	Golf Nut	10/21/04	3/3/05	2/23/05
4295 N. Rancho Dr	Calvary Chapel	5/03/05	9/26/05	not req.
4325 N. Rancho Dr				
-suite 150	Executive Suites	12/19/05	2/17/06	3/7/06
-suite 160	The Blitz	4/21/05	7/6/05	7/6/05
-suite 170	Tri-City Mortgage	3/17/05	5/23/05	6/20/05
4335 N. Rancho Dr				
-suite 110	Zacky's Café	7/25/05	none	none
-suite 150	Amethyst Salon	6/01/05	4/11/06	4/6/06
-suite 180	Gigi's Boutique	6/01/05	4/11/06	2/24/06

Therefore, of the overall site, there are still 2,678 square feet of Drive-through Restaurant or Delicatessen uses without Certificates of Occupancy and unlicensed, and 48,724 square feet of vacant office space without Certificates of Occupancy and unlicensed. These currently unoccupied business bays will require 190 parking spaces on the site, but when the parking required for the currently permitted uses is taken into account, only 139 spaces remain available, a 51-space deficiency.

Should this Variance request be denied, future leasing of the remaining vacant space within the center will be curtailed when the parking for the leased units reaches the total amount of parking on the site. The applicant has provided the city with a letter in which the applicant acknowledges this situation and indicates preparedness to possibly leave portions of the site unleased.

The Department of Public Works has indicated that it supports present City Code parking requirements, and therefore cannot support the Variance request.

FINDINGS

In accordance with the provisions of Title 19.18.070(B), Planning Commission and City Council, in considering the merits of a Variance request, shall not grant a Variance in order to:

1. Permit a use in a zoning district in which the use is not allowed;
2. Vary any minimum spacing requirement between uses;
3. Relieve a hardship which is solely personal, self-created or financial in nature.”

Additionally, Title 19.18.070L states:

“Where by reason of exceptional narrowness, shallowness, or shape of a specific piece of property at the time of enactment of the regulation, or by reason of exceptional topographic conditions or other extraordinary and exceptional situation or condition of the piece of property, the strict application of any zoning regulation would result in peculiar and exceptional practical difficulties to, or exceptional and undue hardships upon, the owner of the property, a variance from that strict application may be granted so as to relieve the difficulties or hardship, if the relief may be granted without substantial detriment to the public good, without substantial impairment of affected natural resources and without substantially impairing the intent and purpose of any ordinance or resolution.”

No evidence of a unique or extraordinary circumstance has been presented, in that the applicant has created a self-imposed hardship by leasing space intended for retail and office uses to businesses that generate a greater parking demand under the Zoning Code. Leasing the spaces in the complex solely for the intended office and retail uses as originally conceived and approved would allow conformance to the Title 19 requirements. In view of the absence of any hardships imposed by the site’s physical characteristics, it is concluded that the applicant’s hardship is preferential in nature, and it is thereby outside the realm of NRS Chapter 278 for granting of Variances.

NEIGHBORHOOD ASSOCIATIONS NOTIFIED

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ASSEMBLY DISTRICT 1

SENATE DISTRICT 4

NOTICES MAILED 151 by City Clerk

APPROVALS 0

PROTESTS 0